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915-005.066-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of :

Miska Hannuksela

Serial No.: **10/782,399** : Art Unit: **2621**

Filed: **February 18, 2004** : Examiner: **Anyikire, Chikaodili E.**

For: **PARAMETER FOR RECEIVING AND BUFFERING PICTURES**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST TO RE-OPEN PROSECUTION

Sir:

This paper is filed in response to the Final Action of November 14, 2008, in accordance with a Panel Decision mailed September 2, 2008. In view of the remarks that follow, re-opening of the prosecution is requested.

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date below in an envelope with sufficient postage as first-class mail addressed to the Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Marilyn O'Connell
Marilyn O'Connell

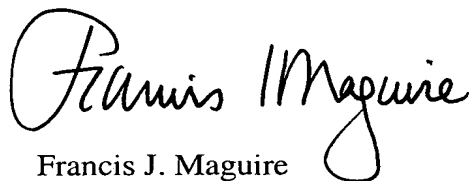
November 25, 2008
Date

REMARKS

This Request to Re-open Prosecution is in response to the Final Rejection mailed November 14, 2008 in which a new ground of rejection under 35 U.S.C. Section 103 has been applied against claims 1, 4-6 and 9-18 in place of the former novelty rejection under 35 U.S.C. Section 102(b). There has been no amendment by the Applicant in the interim between the mailing of the Notice of Panel Decision mailed on September 2, 2008 and the mailing date of the Final Rejection on November 14, 2008. Therefore, prosecution has not been reopened after the Notice but instead a Final Rejection has issued without giving the Applicant an opportunity to consider the new ground of rejection under 35 U.S.C. Section 103. This procedure is not believed to be consistent with the new program announced on July 12, 2005 concerning the new Pre-Appeal Brief Conference Pilot Program. Under that program, in Section 8 under *Administrative Matters* it is stated that following a panel review under this pilot program, the Examiner retains the option to re-open prosecution or to allow an application after the filing of an appeal brief. It does not say that the Examiner may to refuse to re-open prosecution and assert a new ground of rejection in a final rejection without giving the Applicant an opportunity to consider same. It is moreover not believed to be consistent with any other established After-Final procedure.

Since it is believed that the Final Action of November 14, 2008 has followed an incorrect procedure it is requested that the finality of the subject office action be withdrawn and either (a) a new office action be issued with a restart of the period for response, or (b) a Notice of Allowance and a Notice of Allowability be issued.

Respectfully submitted,

A handwritten signature in black ink that reads "Francis J. Maguire". The signature is written in a cursive, flowing style with a large loop at the end of the last name.

Francis J. Maguire
Attorney for the Applicant
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FJM/lk
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